

IN THE FRANKLIN COUNTY MUNICIPAL COURT
ENVIRONMENTAL DIVISION
COLUMBUS, OHIO

CITY OF COLUMBUS, OHIO

% Zach Klein
Columbus City Attorney, Zone Initiative
375 South High Street, 17th Floor
Columbus, Ohio 43215,

Plaintiff,

v.

EASTLAND MALL HOLDINGS, L.L.C.

% National Registered Agents, Inc., S/A
4400 Easton Commons Way, Ste. 125
Columbus, Ohio 43215

And also at:

201 St. Charles Avenue, Ste. 4600
New Orleans, Louisiana, 70170

and

GRASS GROOMERS, INC.

% Emens Wolper Jacobs & Jasin Law
Firm Co., LPA, Statutory Agent
1 Easton Oval, Ste. 550
Columbus, Ohio 43215

And also at:

7017 Americana Parkway
Reynoldsburg, Ohio 43068

and

HILL'S BLACKTOP, INC.

% Kimberly L. Hill, Statutory Agent
140 S. 3 B's & K Road
Galena, Ohio 43021

and

**SECURITAS SECURITY
SERVICES USA, INC.**

% National Registered Agents, Inc., S/A

Case No.

JUDGE STEPHANIE MINGO

VERIFIED COMPLAINT

FOR INJUNCTIVE RELIEF

4400 Easton Commons Way, Ste. 125 :
Columbus, Ohio 43215 :

and :

PROFESSIONAL SECURITY :
CONSULTANTS, INC. :
% Paracorp Incorporated, S/A :
4568 Mayfield Road #204 :
Cleveland, Ohio 44121 :

and :

CHERYL BROOKS SULLIVAN :
FRANKLIN COUNTY TREASURER :
373 S. High Street, 17th Floor :
Columbus, Ohio 43215 :

and :

REAL PROPERTY LOCATED AT: :
Parcel Nos. 010-005352-00, 010-005373-00, :
010-283243-00, 010-283244-00, :
010-283245-00 and 010-137332-00 :

Defendants. :

1. This complaint concerns enforcement of Ohio Revised Code (hereinafter "R.C.") Chapter 3767 *et seq.*, Titles 7, 33, 45 and 47 (including Building or Housing Codes as applicable) of the Columbus City Code so as to be within the exclusive jurisdiction of the Environmental Division of the Franklin County Municipal Court pursuant to R.C. § 1901.181.

2. Plaintiff has standing pursuant to R.C. §§ 713.13 and 715.30 to bring an action seeking an injunction to prevent violations of its housing ordinances of the City of Columbus, Ohio.

3. The Court has personal jurisdiction over the individual Defendant pursuant to R.C. §2307.382(A)(8) since the basis of this complaint is real property situated in Franklin County, Ohio.

4. The Court is a proper venue pursuant to Civ.R. 3(B)(5), since the subject of the action is real property situated in Franklin County, Ohio.

PARTIES

5. Plaintiff, Columbus, Ohio, is a municipal corporation organized under the Constitution and laws of the State of Ohio as well as the Charter, ordinances, and codes of the City of Columbus, Ohio. Zach Klein is the duly elected City Attorney for the City of Columbus, Ohio and brings this action in his official capacity.

6. Eastland Mall Holdings, L.L.C. is the owner, occupant, and/or interested party of the Premises by virtue of a Limited Warranty Deed recorded with the Franklin County Recorder's Office, Instrument Number 201505010056380, and is an individual/entity in charge, care and control of the Premises.

7. Grass Groomers, Inc. holds a lien interest in the property by virtue of a Mechanic's Lien recorded with the Franklin County Recorder's Office, Instrument Number 201803280040463, which could be adversely affected by this action.

8. Hill's Blacktop, Inc. holds a lien interest in the property by virtue of a Mechanic's Lien recorded with the Franklin County Recorder's Office, Instrument Number 201912180170254, which could be adversely affected by this action.

9. Securitas Security Services USA, Inc. holds a lien interest in the property by virtue of a pending lawsuit in the Franklin County Common Pleas Court, Case Number 20CV007814, which could be adversely affected by this action.

10. Professional Security Consultants, Inc. holds a lien interest in the property by virtue of a pending lawsuit in the Franklin County Common Pleas Court, Case Number 19CV003023, which could be adversely affected by this action.

11. Cheryl Brooks Sullivan is the duly elected, sworn, and serving Treasurer of Franklin County, Ohio, and may claim an interest in the property for unpaid and future taxes. This interest could be adversely affected by this action.

12. The City of Columbus holds a lien interest in the properties by virtue of pending lawsuits filed in the Franklin County Common Pleas Court, Case Numbers 19CV001320, 19CV002287 and 20CV001242, which could be adversely affected by this action.

13. The real properties that are the subject matter of this complaint are situated in the City of Columbus, Franklin County, Ohio and known as Permanent Parcel Nos. 010-005352-00, 010-005373-00, 010-283243-00, 010-283244-00, 010-283245-00 and 010-137332-00, (hereinafter “the Premises”),. This action is also *in rem* with respect to the Premises.

FACTS

14. Eastland Mall Holdings, L.L.C. has been a property owner of record of the Premises since May 1, 2015.

15. On or about August 1, 2019, September 11, 2019 and January 22, 2020, Property Maintenance Inspectors Gary Harris and Clay Ellis of the Department of Development’s Code Enforcement Division had reason to and inspected the Premises and observed violations of the Columbus City Code as listed in Exhibit A.

16. As a result of those inspections, Zoning Code Violation Notices 19470-05322, 19470-05325 and 19470-07229 and Columbus City Code Violation Notice 19475-14822 were issued to Defendant detailing violations of the Columbus Health, Safety and Sanitation Code, Title 7 and the Columbus Zoning Code, Title 33.

17. Zoning Code Violation Notices 19470-05322, 19470-05325 and 19470-07229 stated that the violations needed to be corrected within 20 days of service of the order, unless an extension was granted.

18. Columbus City Code Violation Notice 19475-14822 stated that the violations needed to be corrected within five (5) days of service of the order, unless an extension was granted.

19. On or about June 17 and June 24 of 2020, Property Maintenance Inspector Preston Salas (hereinafter "Salas") of the Department of Development's Code Enforcement Division had reason to and inspected the Premises and observed violations of the Columbus City Code as listed in Exhibit A.

20. As a result of those inspections, Salas issued Columbus City Code Violation Notice 20440-01231 and Zoning Code Violation Notice 20470-00665 to Defendant detailing violations of the Columbus Housing Code, Title 45 and the Columbus Zoning Code, Title 33.

21. Columbus City Code Violation Notice 20440-01231 stated that the violation needed to be corrected within 30 days of service of the order, unless an extension was granted.

22. Zoning Code Violation Notice 20470-00665 stated that the violation needed to be corrected within 20 days of service of the order, unless an extension was granted.

23. On or about November 20, 2020, Salas re-inspected the Premises and found that the property remained out of compliance with Columbus City Codes as stated in Salas' attached Affidavit.
(See attached Plaintiff's Exhibit A.)

24. Plaintiff asserts that these orders were not appealed or complied.

CLAIM FOR RELIEF

25. Plaintiff incorporates the preceding paragraphs 1 through 24 as if fully incorporated herein.

26. By reason of the foregoing, the Premises, in its non-compliant state, does not comply with the provisions of the Columbus Health, Safety and Sanitation Code-Title 7, Columbus Zoning Code-Title 33 and Columbus Nuisance Abatement Codes-Title 45 and/or Title 47 or with the provisions of the Columbus and Ohio Building Codes.

27. By reason of the foregoing, the Premises, in its non-compliant state, constitutes a public nuisance as defined in R.C. § 3767.41(A)(2)(a) and Columbus City Code § 4703.01(F), § 4501.275 and § 4101.16.

28. Defendant(s) have a duty to abate the nuisance at Permanent Parcel Nos. 010-005352-00, 010-005373-00, 010-283243-00, 010-283244-00, 010-283245-00 and 010-137332-00, by bringing the properties into compliance with the Columbus and Ohio Building Codes, the Columbus Health, Safety and Sanitation, Housing, Zoning and Nuisance Abatement Codes.

JUDGMENT AND RELIEF DEMANDED

WHEREFORE, Plaintiff demands judgment as follows:

Code Violations

1. A determination that the Premises violates Columbus City Codes Title, 7, Title 33, Title 45 and Title 47 and/or O.R.C. § 3767.41.
2. An order requiring the defendant(s) and any successor(s) in interest or title to bring the Premises into compliance with any and all applicable provisions of the Columbus City Code and/or Ohio Revised Code.
3. An order preliminarily and permanently enjoining the defendant(s) and any successor(s) in interest or title from further violating any and all applicable provisions of the Columbus City Code and/or Ohio Revised Code at the Premises.

Public Nuisance

4. A determination that the Premises constitutes and be declared a public nuisance as defined by C.C.C. §§ 3303.16, 4101.16, 4501.275, 4703.01(F) and/or O.R.C. § 3767.41(A)(2).
5. An order preliminarily and permanently enjoining the defendant(s) and any successor(s) in interest or title from maintaining a public nuisance at the Premises.

6. An order preliminarily and permanently enjoining the defendant(s) from maintaining a public nuisance within the territorial limits of Franklin County, Ohio.

Plaintiff to Abate

7. Authorize Plaintiff, Plaintiff's agent pursuant to O.R.C. § 715.261(E), and/or Plaintiff's private contractor to enter onto the Premises and perform abatement activity pursuant to C.C.C. §§ 4109.06, 4509.06, 4701.08, R.C. §§ 715.26 and/or 715.261, including, but not limited to, demolishing any and all structures located on the Premises.
8. Authorize Plaintiff, and/or its agent pursuant to O.R.C. § 715.261(E), to recover the total cost of abatement activity pursuant to C.C.C. §§ 4109.06, 4509.06, 4701.08, and/or R.C. §§ 715.261(B) including, but not limited to: (1) certifying the costs to the county auditor for placement as a charge upon the Premises' tax list, (2) commencing a civil action, and (3) filing a lien on the Premises and pursuing a foreclosure action for a minimum bid equal to the sum of the taxes, penalties, interest, costs, assessments, total cost of abatement activity and any associated court costs and interest.

Receivership

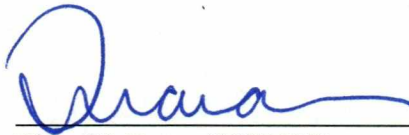
9. Appoint a receiver, pursuant to O.R.C. §§ 1901.131, 2735.01 and/or 3767.41(C)(3).
10. Authorize said receiver to do any and all acts as the Court deems necessary pursuant to O.R.C. §§ 2735.04 and/or 3767.41 including, but not limited to: (1) repairing or renovating any and all structures on the Premises, (2) demolishing any and all structures on the Premises, and (3) selling the Premises free and clear of any and all liens.
11. Tax as court costs, or otherwise treat as an administrative expense of this matter, pursuant to O.R.C. §§ 2735.04 and/or 3767.41, any funds that are expended by or on behalf of the receiver.
12. Declare, through an enforceable order, that any and all courts costs and administrative expenses of this matter shall have priority over any and all preexisting liens upon the Premises.

Additional Relief

13. An award of Plaintiff's costs and attorney's fees payable by defendant(s).
14. All such further equitable and other relief as the Court determines Plaintiff to be entitled.

Respectfully submitted,

**CITY OF COLUMBUS, DEPARTMENT OF LAW
ZACH KLEIN, CITY ATTORNEY**



Tiara N. Ross (0089583)
Assistant City Attorney
375 S. High Street, 17th Floor
Columbus, Ohio 43215
Phone: 614-645-0781
Fax: 614-645-6548
tnross@columbus.gov
Attorney for Plaintiff City of Columbus

AFFIDAVIT

CODE ENFORCEMENT

Now comes **Preston Salas** who being first duly cautioned and sworn, stating that I have personal knowledge of the facts contained in this affidavit and that I am competent to testify to the matters stated herein, and state as follows:

- 1.) I am currently employed by the City of Columbus, Department of Development as a Property Maintenance Inspector. I have been employed with the City of Columbus Code Enforcement Division 2 years.
- 2.) In their capacity as a Property Maintenance Inspectors, Code Enforcement Officers (CEO) **Gary Harris and Clay Ellis** had reason to inspect the property at **2740 Hamilton Rd, Columbus, Ohio, 43232**, Parcel Numbers **010-005352, 010-005373, 010283243, 010-283244, 010-283245, 010137332**. The date of their original inspections were **08/01/29, 09/11/19 and 01/22/20**.
- 3.) During the course of the inspections, the following violations of the Columbus City Code were witnessed:
Order #19470-05322: 3312.23 – Potholes in the parking area.

Order #19470-05325: 3312.23 – Potholes in the parking area.

Order #19470-07229: 3321.03 – Multiple light fixtures not illuminated.

Order #19475-14822: 709.03 – High grass and weeds.
- 4.) As a result of these violations, Orders # **19470-05322, 19470-05325, 19470-07229 and 19475-14822** were issued.
- 5.) In my capacity as a Property Maintenance Inspector, Code Enforcement Officer (CEO) **Preston Salas** had reason to inspect the property at **2740 Hamilton Rd, Columbus, Ohio, 43232**, Parcel Numbers **010-005352, 010-005373, 010283243, 010-283244, 010-283245, 010137332**. The dates of my original inspections were **06/17/20 and 06/24/20**.
- 6.) During the course of the inspection, the following violations of the Columbus City Code were witnessed:
Order #20440-01231: 4525.11 – Missing sections of fascia/flashing. 4525.14 – Brick work missing sections of brick, concrete curbs are crumbling. 4525.02 – Exterior door boarded.

Order# 20470-00665: 3305.01 – Change of use to auto sales requires Certificate of Zoning Clearance. 3305.03 – Change of use to auto sales is not in compliance with previously authorized Zoning Clearance.
- 7.) As a result of these violations, Orders # **20440-01231 and 20470-00665** were issued.
- 8.) I re-inspected the aforementioned property on **11/20/2020** and found the following violations:
33312.23 – Maintenance: Potholes in the parking area
3321.03 – Lighting: Multiple light fixtures not illuminated
709.03 – Standards relative to noxious weeds: High grass

EXHIBIT

tabbles

A

4525.11 – Exterior of premises: Missing sections of flashing/fascia

4525.14 – Concrete brick work: Brick work missing sections, concrete curbs crumbling

4525.02 – Windows doors and hatchways: Exterior door boarded

3305.01 – Certificate of Zoning Clearance: Change of use to auto sales

3305.03 – Authority and compliance: Change of use to auto sales

FURTHER AFFIANT SAYETH NAUGHT.



Preston Salas, Property Maintenance Inspector



Edgar L. Dillon Jr.

Notary Public

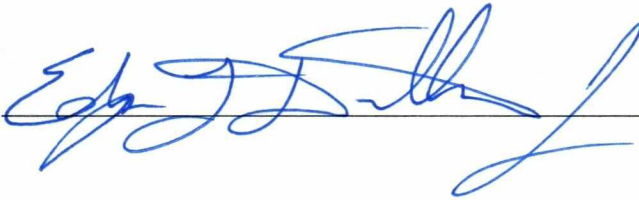
In and for the State of Ohio

My Commission Expires

5/31/25

Sworn to and Subscribed in my presence this 20th day of November, 2020.

By:



, Notary Public